FIRST FEDERAL BANK®
OF CALIFORNIA FSB

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Shannon Millard, Executive Vice President

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September 26, 2000

Manager, Dissemination Branch
Information Management and Services Division
Office of Thrift Supervision
1700 G Street, N.W.
Washington, D.C. 20552

2000 OCT -2 P 5:12

Re: Proposed Agency Information Collection Activities

Gentlemen/Ladies:

First Federal Bank of California ("FFB") respectfully submits the following comments on proposed changes to the Thrift Financial Report ("TFR"), effective with the March 31, 2001 report (the "Proposal").

FFB strongly objects to the proposed categorization of "nontraditional lending," to include high loan-to-value loans and subprime loans. The OTS has already established limits for high loan-to-value ("LTV") loans for 1 – 4 unit owner-occupied properties absent mortgage insurance, at not in excess of 100% of capital. We believe that making high LTV loans is a practice well understood and controlled within the industry, both through the OTS' regulatory limitations and by the exercise of prudent lending practices. The high LTV loan is a necessary part of meeting an institution's commitment to the credit needs of many members of its communities, such as first-time homebuyers and low- and moderate-income borrowers.

In contrast, subprime lending is a relatively new type of lending for many institutions, as it traditionally has been undertaken by finance companies and "hard money" lenders. FFB belives that the definition of "subprime lending" contained in the Proposal is overly broad. Generally, it would tend to inhibit creative programs designed to assist many members of our communities, as noted above.

Specifically, FFB objects to the proposed definition's reliance upon a measurement of a "significantly higher risk of default" based upon traditional credit risk measures. This definition does not permit a lender to use compensating factors to positively offset a prior poor credit history. For special CRA lending programs, the standardized credit profile does not necessarily fit, and would lead to the conclusion that a non-standard credit profile means an inherently more risky loan. This would be an incorrect and unfair conclusion.

In order to avoid this result, if there is to be any measurement and reporting of subprime lending, the definition must focus on the true abuser of credit (borrowers who have persistently mismanaged their creditors over an extended period of time, have current defaults, charge-offs and collections, etc.). A borrower with a non standard credit profile, where compensating factors are present, should not be considered a subprime borrower.

With respect to the specific items on which comment is invited, FFB offers the following:

1. If reporting is required, it should be on a segregated portfolio/program basis, with the definition of "subprime lending" very clearly stated. The vague standards contained in the Proposal would lead to self-classification which could vary greatly between institutions.

2. FFB notes that under the proposed definition of subprime loans contained in the Proposal, FFB would have no loans currently categorized as subprime. This is based on a segmented portfolio analysis.

3. As noted above, we would consider a loan to be subprime at origination if factors such as very low credit scores, late pays, judgments, liens, prior recorded defaults, foreclosures, recent bankruptcies, etc. were present.

4. In defining subprime loans, FFB believes that the best indicators of a higher risk of default are delinquency history, foreclosure and bankruptcy history prior to origination, and a high percentage use of available revolving debt. Factors least likely to indicate a higher risk of default are loan fees and interest rates (which may have a rationale due to the type of loan program, rather than being established to offset risk of default), debt to income ratio (where there may be compensating factors, such as low LTV, strong guarantor, pledge account or other security, etc.), LTV ratio (again, there may be numerous compensating factors). Credit scores are difficult to evaluate as a measure of risk of default. Basing the definition of subprime lending upon credit scores would, as noted above, undermine the efforts that many lenders make to provide credit to borrowers that do not have established traditional credit profiles.

5. The definition of subprime lending should be different for each type of loan. It should take into account the fact that a borrower's willingness to default on a home loan compared to a credit card or an automobile loan is significantly different.

6. At this time, FFB could not determine from its records whether it has loans that should be characterized as subprime based on the definition in the Proposal. As noted above, FFB does not have any loans that would have been characterized as subprime based upon our understanding of the correct meaning of that term.

7. It appears obvious that credit and underwriting standards differ, and should differ, in various economic environments. The economy, demographic shifts, cultural changes and other factors will result in rational changes in lending practices. This is not necessarily reflective of a greater degree of risk-taking by the institution. The impact of the Proposal's definition of subprime lending would be to create a stagnant environment which could impair an institution from appropriately meeting the credit needs of its community.

8. FFB agrees that there should be a distinction made between institutions that target higher risk borrowers to obtain higher loan rates and fees, versus institutions that serve borrowers in economically disadvantaged areas who do not have standard "good" credit. As noted above, the definition should focus on the former, and not the latter, in order to fairly represent loans with a greater risk of default.

9. If a definition such as that contained in the Proposal is adopted (to which FFB objects), FFB strongly supports establishment of a *de minimus* level of subprime loans below which reporting is not required. In order to properly focus attention on lending levels which may create additional risk to the institution, a level of, for example, 300% of capital may be an appropriate de minimus level.

10. All institutions should be treated similarly. The purpose of the proposal is to determine the risk to the governmental insurance funds, from individual institutions regardless of size as well as in the aggregate. There is no logical basis for excluding an institution based upon its size.

11. Again, any definition of subprime lending for TFR reporting purposes must take care to exclude CRA-related lending programs. Similarly, first-time homebuyer programs, low LTV loans, loans with mortgage insurance or other credit support should be excluded, since they do not correlate to loans with a "significantly higher risk of default."

12. FFB agrees that if this new category is adopted, there should be a confidential "phase-in" period of at least one year. This is an area with great potential for misunderstanding, particularly given the common perception that a "subprime lender" is a "predatory lender." There will be adverse consequences for the financial institution and the community served by it if an institution is

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incorrectly characterized as a "subprime lender." The adverse consequences of being considered a "subprime lender" could lead to a chilling effect on worthwhile loan programs.

Thank you for your consideration of these comments.

Very truly yours,

Shannon Millard
Executive Vice President
Chief Credit Officer

cc: James P. Giraldin, Chief Operating Officer
Scott Gray, Chief Residential Lending Officer

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